UNITED NATIONS

General Assembly

FORTY-SIXTH SESSION

Official Records

THIRD COMMITTEE
44th meeting
held on
Tuesday, 19 November 1991
at 10 a.m.
New York

SUMMARY RECORD OF THE 44th MEETING

Chairman: Mr. AL-SHAALI (United Arab Emirates)

CONTENTS

AGENDA ITEM 98: HUMAN RIGHTS QUESTIONS

(b) HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(c) HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

This record is subject to correction.
Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, Room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

91-57505 5429S (E)

Distr. GENERAL
A/C.3/46/SR.44
5 December 1991
ENGLISH
ORIGINAL: FRENCH

The meeting was called to order at 10.10 a.m.

AGENDA ITEM 98: HUMAN RIGHTS QUESTIONS (A/46/67, 70, A/46/71-E/1991/9, A/46/72, 81, 83, 85, 95, 96, 99, 117, 121, 135, A/46/166-E/1991/71, A/46/183, A/46/184-E/1991/81, A/46/205, 210, 226, 260, 270, 273, 290, A/46/292-S/22769, A/46/294, A/46/304-S/22796, A/46/312, 322, 331, 332, 351, 367, 402, 424, 467, 485, A/46/46-S/23055, A/46/493, 526, 582, 587, A/46/598-S/23166; A/C.3/46/L.25)

(b) HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (A/46/3 (chap. VI, sect. C), 24, 420-422, 473, 504, 542, 543, 603, 609 (to be issued) and Add.1, 616; A/C.3/46/L.2, L.3)

(c) HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES (A/46/3 (chap. VI, sect. C), 401, 446, 529, 544, 606, 647 (to be issued))

1. Miss KAMAL (Secretary of the Committee) said that the report of the Secretary-General under agenda item 98 (b) in pursuance of General Assembly resolution 45/150 would be issued as soon as possible under the symbol A/46/609. With regard to agenda item 98 (c), she said that the note by the Secretary-General transmitting the interim report on the situation of human rights in Iraq prepared by the Special Rapporteur of the Commission on Human Rights would be issued under the symbol A/46/647.

2. In his introductory statement, Mr. MARTENSON (Under-Secretary-General for Human Rights) said that the debate on the item under consideration provided an opportunity to focus on two types of issues: first, the future direction of developments in the United Nations human rights programme, more particularly in connection with alternative approaches for improving the effective enjoyment of human rights and with the World Conference on Human Rights, and, second, the human rights situation as it stood in a number of countries at present.

3. The world was currently witnessing a return to multilateralism and to the ideals of the founders of the United Nations. The development was most encouraging, for present-day problems, especially those in the field of human rights, could only be resolved by the community of nations working together. The human rights programme had already begun to seize the opportunities offered by those changes in the international climate and by the rise of democracy. As the Secretary-General had put it, human rights had now become one of the keystones in the arch of peace.

4. In the field of standard-setting, the Convention on the Rights of the Child and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families had been adopted, as had the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty and the guidelines on

(Mr. Martenson)

computerized personal files. The Assembly currently had before it a draft body of principles for the protection of persons with mental illness and for the improvement of mental health care.

5. In the area of research and studies, he wished to point to the early work of the Centre for Human Rights on the question of human rights and AIDS. The extent of the AIDS pandemic had shown that its human rights implications, and especially those related to discrimination, needed urgent study. Accordingly, the Subcommission on Prevention of Discrimination and Protection of Minorities had appointed a Special Rapporteur on the subject, and in July 1989 the Centre had, with the support of the World Health Organization, organized an international consultation on AIDS and human rights. The report on the consultation had been widely distributed.

6. The Global Consultation on the Realization of the Right to Development as a Human Right held in 1990 had underlined the importance of promoting the whole range of human rights and had focused particular attention on democracy and participation as elements essential to human development, calling for the integration of human rights principles in the development activities of international organizations.

7. In the field of implementation of international instruments, the various committees set up under human rights treaties had taken numerous steps to improve their methods of reviewing reports by States parties and their follow-up on recommendations. As a result of the spread of information concerning complaints and of the world-wide increase in interest in human rights issues, the workload of working groups, special rapporteurs and representatives appointed to investigate complaints had grown dramatically. The Assembly would have before it reports on the situation of human rights in Kuwait under Iraqi occupation as well as in El Salvador, Afghanistan, South Africa, Iraq and Southern Lebanon. The Special Political Committee was considering the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories. The Commission on Human Rights, for its part, would at its next session consider reports on a number of country situations and on disappearances, summary or arbitrary executions, torture, and arbitrary detention.

8. The number of special country procedures had increased by almost 30 per cent in the past two years and the number of field missions needed to support those activities had doubled. Forty thousand individual cases had been taken up with Governments under those procedures, some 2,500 cases being dealt with as matters of urgency. Those figures did not include the hundreds of thousands of complaints dealt with under the 1503 procedure, which represented an increase of over 300 per cent over the 1988 figure. The workload involved in servicing those procedures, which often concerned matters of life and death and had to be handled with the greatest possible swiftness, had stretched the resources of the Centre to the extreme.

(Mr. Martenson)

9. It was in the field of advisory services and technical assistance that the most significant progress had taken place. Since 1987, it had become apparent that the changing international conditions and the moves toward democracy provided unique opportunities for expanding the human rights programme in an action-oriented direction. The programme of technical cooperation in the field of human rights provided Governments, at their request, with various forms of assistance: drafting new democratic constitutions, establishing national human rights infrastructures, providing expert advice in connection with holding free and fair elections, drawing up democratic legislation, training administrators of justice, offering human rights fellowships to qualified nationals, and translating key human rights instruments into local languages. In fact, the Programme was an instrument which could be easily adjusted to the specific needs of a given country, and over the past year, the Centre had accordingly received requests for assistance from 50 Governments. The creation of a Voluntary Fund for Technical Cooperation for Human Rights had enabled the Centre to enhance its activities in that field. However, due to the unprecedented demand for assistance over the past several months, additional funding and human resources had to be found. Donor countries should be thanked for their effort, while urgent financing of that portion of the Human Rights Programme should be considered.

10. Regarding the African continent, the initial operation of the African Commission on Human and Peoples' Rights, for which the Centre was the leading cooperation agency, held out the promise of progress in the protection of human rights. The Centre's support programme for the Commission had already allowed various activities to take place, particularly in the areas of information and training. The Centre provided backing for the African Centre for Democracy and Human Rights Studies and the Arab Institute of Human Rights in Tunis. It had also undertaken programmes in a number of countries, including Egypt, the Gambia, Uganda, Rwanda, Togo, Tunisia and Zambia. In Namibia, the Centre was discussing with the Government the possibility of instituting a large programme of technical cooperation in order to help it establish appropriate infrastructures for the promotion of human rights.

11. The changes in South Africa had also presented an opportunity to advance the cause of human rights. In June, the Centre had endeavoured to facilitate understanding of international standards and had instituted dialogue regarding the development of a new constitution with a largely representative sample of South African society and international experts who met in Geneva.

12. The return to democracy in Latin America had provided great opportunities for promoting respect for human rights and fundamental freedoms. In Asia, new opportunities for increasing cooperation in the field of human rights had also emerged. The Centre had recently helped the Government of Mongolia to draft its new constitution in order to ensure universally accepted rights. It had also translated the basic human rights documents into Mongolian and organized a human rights seminar in that country. Furthermore, it had carried out

programmes of cooperation in the area of training and institution-building in the Philippines, India and Indonesia. It also sustained the creation of a network of human rights centres.

13. Assistance and research activities had enabled the Centre to understand the crucial triangular relationship between democracy, development and human rights. The Centre believed that the universal desire to live freely in a democratic society was the keystone of promotional activities for all human rights. It had therefore moved swiftly over the past four years to help newly elected Governments establish democratic institutions. It firmly believed that democracy and human rights went hand in hand and reinforced each other. The link between good governance, human rights, popular participation and democracy encouraged respect for international pluralism, a greater role for local organizations and respect for human rights, and in particular, the establishment of an independent judiciary and effective and accessible legal systems. The truly democratic character of the institutions of all members of the international community would guarantee international peace and security, respect for human rights, economic and social development and the international rule of law.

14. Without an informed public opinion, it was difficult to ensure the protection of human rights. The tremendous influence which public opinion could have upon international humanitarian affairs and progress in human rights had been demonstrated. On the Centre's initiative, the General Assembly had unanimously launched the World Public Information Campaign for Human Rights, as a result of which hundreds of thousands of copies of publications on human rights had been distributed throughout the world, in all the official languages of the United Nations, to Governments, academic and research institutions, non-governmental organizations and the media. The Centre had also translated the Universal Declaration of Human Rights into local languages and had provided specialists for seminars or teaching exercises. The aim of the campaign had been to create a universal culture of human rights, in which human rights and fundamental freedoms were inherent to the human person without distinction.

15. Regarding the World Conference on Human Rights to be held in Berlin in 1993, the Preparatory Committee for the World Conference had held its first session in September 1991, during which it made several recommendations regarding the Conference itself and the activities in preparation for it. In the statement he had made during the first meeting of the Preparatory Committee, he had suggested that the World Conference should be regarded as a dynamic process of reaffirmation and strengthening of human rights in which an ever-growing number of organs, institutions and social groups should participate, culminating in the recognition of the paramount importance of human rights. The process would be one of the required factors leading to the establishment of a universal culture of human rights to which the Secretary-General referred in his report on the Work of the Organization (A/46/1). Far from duplicating the debates of the Commission on Human Rights

(Mr. Martenson)

or of the General Assembly, the World Conference should, in an open and constructive spirit, imaginatively lay down directives concerning the activities to be undertaken.

16. The process should comprise three major elements. First, the energy of all human rights organs, in addition to those of Governments, non-governmental organizations and individuals, should be mobilized to reaffirm and safeguard the international standards proclaimed by the United Nations. Secondly, United Nations standards should be universally applied, without excluding any individual from the protection offered as a result. The universality of human rights would be assured by the elimination of discrimination, in particular racial discrimination. Thirdly, national and international action should ensure that human rights were applied to the daily lives of people throughout the world, while asking whether such rights enhanced the quality of life, since it was truly an illusion to want to oversee the application of international instruments outside the concrete situations in which people lived.

17. The World Conference should seek to determine those institutions and activities that enabled human rights to be protected effectively, such as the incorporation of international norms into national law and the existence of such institutions as the ombudsman and human rights commissions. Internationally, the interdependent nature of all activities of the United Nations system, whether in human rights, development, international peace and security or technical matters and assistance, required each sector of the system to be conscious of its human rights obligations and the impact of its activities on those rights. In his statement to the Preparatory Committee at its first session, he had raised the issue, also taken up at greater length by the Secretary-General, of what the United Nations could do to deal with in concrete situations of massive violations of human rights, either preventively or to bring them to a halt.

18. The role of human rights treaty bodies in conflict prevention and conflict resolution through promoting respect for human rights was another important aspect for the Conference to consider. The United Nations should ask whether those bodies could play a role before human rights problems developed into conflict, and whether it could assist in starting dialogue when problems were beginning to develop?

19. With respect to what the Organization could do, under the right conditions, to resolve concrete situations, it might make a contribution to preventing or ending violations in cases where massive violations could affect international peace and security, create international tension or cause mass exoduses. The concept of United Nations human rights monitors or a United Nations human rights presence could be explored, as well as the possibility of establishing an early warning system.

(Mr. Martenson)

20. With respect to resources, he pointed out that the new responsibilities given to the Centre for Human Rights with the increase in requests for help in that area and the expansion of existing mandates, including the preparations for the 1993 World Conference on Human Rights, had not been sufficiently funded. That situation should be remedied in order to enable the Centre to act effectively.

21. Mr. ERMACORA (Special Rapporteur on the Situation of Human Rights in Afghanistan) recalled the events that had marked the evolution of the political situation: the decision to withdraw Soviet troops from Afghanistan taken in 1987; the policy of national reconciliation undertaken by the Afghan Government; the signing of the Geneva Agreements in 1988; and the withdrawal of Soviet troops from Afghanistan in 1989. New attempts had been made in 1991 to arrive at a political solution of the conflict: efforts by the Secretary-General of the United Nations and his Personal Representative to consult all parties to the conflict; formulation of the Secretary-General's five-point peace plan; the Joint Declarations of Islamabad and Tehran of July and August 1991 respectively; and the agreement reached between the Governments of the United States of America and the Union of Soviet Socialist Republics concerning the simultaneous cutoff of their weapons deliveries to all sides as of 1 January 1992. In spite of all those efforts, the conflict was still going on. In addition, the efforts made had been chiefly diplomatic and took little account of the human rights situation and the humanitarian consequences of the war.

22. The number of refugees, including children born in refugee camps, was more than 6 million, or more than a third of the population of Afghanistan. As the Secretary-General had emphasized, international assistance had decreased with the international community's decreasing interest.

23. The whole country remained heavily mined; technical assistance and qualified personnel were lacking, which was all the more regrettable since Afghanistan was prepared to cooperate with the United Nations by making available Afghan and Soviet mine plans. There were no plans of mine fields laid by opposition forces.

24. Refugees deplored the lack of administration and the frequent absence of law and order in areas not under the control of the Government, to which they would like to return.

25. He had not been able to visit the prison camps of whose existence he had heard. It appeared that the prisoners taken in the battle of Khost by opposition forces had been treated humanely. Nevertheless, the existence of thousands of such prisoners testified to the intensity of the conflict.

26. The armed conflict continued in the form of attacks and retaliation. On neither side were human rights respected owing to the heavy use of tactical weapons in total disregard of the humanitarian obligations enshrined in the

(Mr. Ermacora)

Geneva Conventions. In his report (A/46/606), he had described the terrorist attacks on cities such as Gardez, Laghman and Jalalabad and the counter-attacks that followed. Thousands of people had been killed in the course of the reporting period.

27. Despite invoking pluralism and reconciliation, the Government seemed to be combating the opposition, even in the case of purely ideological movements, by all available means. There had been reports of torture under interrogation, which it would be well to investigate, although that could not be done by Special Rapporteurs. Prisoners awaiting trial were held for excessive periods, and there were still thousands of convicted prisoners. The number of prisoners had been relatively stable, as the periodic releases through amnesty decrees were made up for by new incarcerations. The number of interrogation and investigation centres was apparently greater than was generally admitted.

28. One positive element should be mentioned: he had been informed that the special courts system had been abolished by a law unifying the judiciary and that even though members of the Communist Party, now called the Watan Party, still exercised influence over the judiciary, its members could no longer serve as judges and attorneys.

29. More than 90 persons had been sentenced to death in connection with their alleged participation in the attempted coup d'état of March 1990. He urged the General Assembly to appeal to the President of the Republic of Afghanistan to pardon them. A general amnesty, applying also to prisoners held by opposition forces, would be a good contribution to a genuine process of reconciliation.

30. It appeared that freedom of movement, freedom of worship and - with a certain amount of self-censorship - freedom of the press had been respected, as far as was possible in time of war. With regard to economic, social and cultural rights, the Afghan Government had submitted a report on the subject to the Committee on Economic, Social and Cultural Rights of the Economic and Social Council (E/1990/5/Add.8).

31. After thorough investigations, he had been able to clarify the allegations concerning Afghan children living in the Soviet Union, a question dealt with in detail in paragraph 75 of his report.

32. The right to self-determination could not be exercised because of the fragmentation of the Afghan population: 6 million Afghans were living abroad and several million were divided between areas within and outside Government control. He welcomed the new initiative aimed at holding local elections announced in a letter from the President of Afghanistan to the Secretary-General of the United Nations (A/46/548), although it was doubtful whether such elections, which normally constituted an element of self-determination, could in fact be held under the present circumstances. First there would have to be a cease-fire, followed by the return of

refugees. The conditions for a peaceful solution to the conflict were outlined in the Secretary-General's five-point peace plan. Once that solution was in prospect, the human rights situation in Afghanistan would improve and would no longer require such careful vigilance on the part of the United Nations.

33. Mr. KALIN (Special Rapporteur on the situation of human rights in Kuwait under Iraqi occupation) said that, following his appointment by the Commission on Human Rights pursuant to Commission resolution 1991/67, he had visited Kuwait from 12 to 20 June 1991 and from 31 August to 6 September 1991 in order to carry out his tasks. On both occasions he had enjoyed the full cooperation of the Kuwaiti Government and had been able to interview a large number of persons who reported that they had been victims of, or had witnessed, violations of civil and political rights committed by the Iraqi occupying forces; he had also seen some of the material destruction attributed to the Iraqi forces, allegedly caused by violations of economic, social and cultural rights.

34. Under the terms of his mandate, he had been authorized to seek information from the Government of Kuwait and from specialized agencies and intergovernmental and non-governmental organizations, but not from other Governments. Nevertheless, he had been able to study reports submitted by the Government of Iraq to various United Nations bodies, as well as relevant Iraqi legislation. He had forwarded a copy of his preliminary report to the Iraqi Government and hoped that all the Governments concerned would submit their observations on it by 15 December 1991 so that they could be reflected in the final version of the report to be submitted to the Commission on Human Rights.

35. He then summarized the most important findings of the preliminary report (A/46/544):

> 1. With regard to the prohibition of arbitrary arrest, detention and deportation, more than 4,200 prisoners of war (as defined by the Third Geneva Convention) and several thousand civilians, including Kuwaiti citizens or stateless residents of Kuwait (bedouns) and citizens of other Arab states, had been arrested and in many cases detained for prolonged periods or even deported to Iraq. They included an estimated 2,000 victims of the mass arrests which had begun on 19 February 1991. Although the Fourth Geneva Convention entitled an occupying power to intern protected citizens, subject to certain restrictions, the mass, arbitrary or prolonged detention of civilians had in many instances not been justified even on military grounds and in most cases had been in total violation of the procedures laid down in that Convention. Several hundred citizens of member countries of the Organization for Economic Cooperation and Development had been deported to Iraq and used as human shields at strategic sites, in flagrant violation of the Fourth Geneva Convention, while diplomatic and consular staff of several countries had been confined to their embassy compounds in violation of the basic principles of international law.

(Mr. Kalin)

2. Torture and other cruel, inhuman and degrading treatment had been practised systematically during interrogations conducted during the occupation. The most brutal forms of torture (electroshocks, burnings, mutilations, rape or mock executions) had been used against those suspected of belonging to the Kuwaiti resistance.

3. With regard to the right to life, there was widespread evidence of arbitrary and summary executions, executions after torture and summary executions without trial. Where trials had been held, they failed to respect the fundamental conditions for a fair trial, even those applicable in time of war. Executions had been carried out in public or in the presence of families, and dead bodies had been exposed in public with the aim of spreading terror among the civilian population. It was estimated that hundreds of persons had been executed and the figure could be higher still should it transpire that some of those reported missing had been executed.

4. The victims of serious human rights violations included many children and women who had reportedly been arrested and, in some cases, deported to Iraq. Some had been tortured and executed. Many children had witnessed traumatic events and numerous women had been raped during interrogation or detention.

5. With regard to economic, social and cultural rights, the right to health in particular had been seriously curtailed during the Iraqi occupation. There had been a sharp increase in mortality rates in health care institutions, many of which had been closed, destroyed, pillaged or abandoned by staff following acts of intimidation by Iraqi occupying forces.

36. Having described those findings which concerned the past, he wished to draw attention to the problem of missing persons. His preliminary report needed to be updated because a new list of 2,101 persons reported missing by their families had been published on 13 October 1991 by the Kuwaiti Government. There were strong grounds for believing that many of those persons had been arrested by the Iraqi occupying forces and had never been released. So far Iraq had not provided information on persons arrested by its authorities in Kuwait and not yet repatriated, nor had it given details of deaths occurring during detention or persons sentenced to death, as required by the Third and Fourth Geneva Conventions.

37. Reiterating the main recommendations contained in his preliminary report, he recommended, inter alia, that the competent organs of the United Nations should:

(i) Urge the Government of Iraq to provide information on all persons deported to Kuwait between 2 August 1990 and 26 February 1991 who were still missing, including persons who had died while in detention or been executed;

(Mr. Kalin)

(ii) Urge the Government of Iraq to release persons deported from Kuwait who were still detained in Iraq and invite other Governments concerned to allow for the repatriation of such persons to the country of their former residence (he was referring only to persons released by Iraq after having been deported from Kuwait);

(iii) Invite the Government of Iraq to search, in a humanitarian spirit, for the persons still missing and to cooperate with international humanitarian organizations such as the International Committee of the Red Cross, in that regard;

(iv) Invite the Government of Kuwait to take all measures within its capacity and to cooperate with international organizations to identify all remaining unidentified persons killed in Kuwait, for the purpose of clarifying cases of missing persons for their relatives.

38. Mr. VAN DER STOEL (Special Rapporteur on the situation of human rights in Iraq) said that, in its resolution 1991/74, the Commission on Human Rights had requested its Chairman to appoint a Special Rapporteur to make a thorough study of the violations of human rights by the Government of Iraq and to consider all the information that he might deem relevant, including information provided by intergovernmental and non-governmental organizations and any comments and material provided by the Government of Iraq.

39. After being appointed Special Rapporteur in June 1991, he had made a systematic analysis of a great number of written communications dealing with alleged violations of human rights provided by non-governmental organizations or by individuals. That information had been supplemented by numerous interviews with individuals who wished to provide oral evidence, while requesting that their names be withheld because they were afraid that their relatives in Iraq might suffer as a result.

40. Because his mandate limited him to a study of violations of human rights by the Government of Iraq, other such violations committed on Iraqi territory for which the Government of Iraq could not be held responsible fell outside his terms of reference. As for violations in Kuwait for which the Government of Iraq might be held responsible, they were the subject of the report by the Special Rapporteur on the situation of human rights in Kuwait under Iraqi occupation (A/46/544).

41. In accordance with his mandate, on 22 July 1991 he had addressed a letter to the Minister for Foreign Affairs of the Republic of Iraq, expressing his interest in contacting the relevant Iraqi authorities. On 27 August, he had met the Counsellor from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva, who had stated that the Government of Iraq intended to cooperate fully with the Special Rapporteur; such cooperation included acceptance of a visit by him to Iraq. After accepting that

(Mr. Van Der Stoel)

invitation, he had considered it preferable to have a written exchange of views before his visit, to make it easier to identify the questions on which further clarification or dialogue would be needed and to include in his dialogue with the Government of Iraq the allegations of human rights violations that were continuing to arrive. It had been decided that his visit to Iraq should take place early in 1992. On 16 September, he had submitted a written memorandum raising questions concerning arbitrary detention, disappearances, torture, inhuman or degrading practices, extrajudicial killings, control of civil disturbances, hostage-taking and the use of people as "human shields" during hostilities, laws in force, individual cases, the effects of recent amnesties, the treatment of ethnic groups, religious practices and cultural properties, and access to food and health care. That memorandum was reproduced in full in his interim report (A/46/647), together with two appendices containing the names of people who had disappeared.

42. On 26 October, the Government of Iraq had sent a lengthy reply which was reproduced in full in chapter III of his report. He had had to leave out a number of fairly voluminous annexes to the reply, but they could be made available, in the original language, to any delegation which might wish to see them.

43. Although some of the remarks in the introduction to its reply might be construed as an indirect admission that the human rights provisions of a number of conventions to which Iraq was a Party had not been fully respected, the Government of Iraq had not explicitly confirmed such violations with one exception. It did concede that there had been some cases of torture. But a number of human rights violations were attributed to insurgents.

44. His comments on the reply from the Government of Iraq were contained in chapter IV of his interim report. In an effort to be objective and impartial, he had taken as his only standard the human rights conventions to which Iraq had voluntarily become a Party. But he had been forced to conclude that a considerable number of the replies were unsatisfactory, either because they were incomplete or because they were unconvincing. Moreover, quite a number of other questions remained unanswered. However, the Government of Iraq had stated in its reply that it intended to follow up on the questions that had not been covered specifically in detail.

45. He had sent two lists of people reported to have disappeared to the Government of Iraq, asking if information could be provided about their fate. In its reply, the Government of Iraq identified only four of them as still being alive. As for the rest, it said that they had either died during the disturbances or had left the country, a reply which he found disturbing, because it was hard to believe that, if that was the case, those who provided him with the lists would not have known.

46. Before presenting his final report and conclusions to the Commission on Human Rights, he would have to deal with new allegations of human rights

(Mr. Van Der Stoel)

violations in Iraq that were continuing to arrive almost daily. All such testimony was scrutinized in the same way as the information provided by the Government of Iraq, which would be asked to comment on the allegations made.

47. He intended to visit Iraq at the end of the year in order to gather new information and to continue and intensify his dialogue with the Government. He had noted with appreciation the stated intention of the Government of Iraq to do its utmost to further his task in a manner conducive to the promotion of human rights.

48. Mr. BALANDA (Chairman/Rapporteur of the Ad Hoc Working Group of Experts on Southern Africa) said that the Working Group had been set up in 1967 by the Commission on Human Rights, which, in its resolution 1991/21 of 1 March 1991, had renewed its mandate for two years. The Group reported each year on human rights violations committed in South Africa under the apartheid regime to the Commission on Human Rights, which had in addition requested it to submit brief preliminary reports to the General Assembly at its forty-sixth and forty-seventh sessions. As Rapporteur of the Working Group, therefore, he was submitting its first preliminary report (A/46/401).

49. From the start of its mission, the Working Group had requested the cooperation of the South African Government in enabling it to evaluate the situation in the country. Despite several letters and informal contacts with the Permanent Representative of South Africa to the United Nations Office at Geneva, the Working Group had received no positive reply from the South African Government. It had therefore decided to seek information from the various sources available and, in July 1991, in London, it had heard testimony from several individuals, members of anti-apartheid organizations, human rights defence groups, associations of lawyers concerned with apartheid and South African nationals. It was largely on the basis of that information, covering the period from January to July 1991, that the report had been prepared.

50. The Working Group had noted with satisfaction the long-awaited repeal of some of the legislative pillars of apartheid: the Group Areas Act, the Land Acts and the Population Registration Act. It should be noted, however, that only persons born after the repeal of the latter would benefit from it. Those who were already registered remained classified according to race. Similarly, the amendments to some of the provisions of the Internal Security Act were inadequate. The Act should therefore be re-examined pending its complete repeal, particularly in respect of detention without charge.

51. Since the Working Group's adoption of its report at the beginning of August 1991, the situation in South Africa had developed further. It should be recalled that, in order to permit the opening of constitutional negotiations, in accordance with the Declaration on Apartheid and its Destructive Consequences in Southern Africa (S-16/1), which had been adopted by consensus, political prisoners were to be released and political exiles

(Mr. Balanda)

authorized to return to the country under a general amnesty. The cut-off date of 30 April 1991 for the return of political exiles, as agreed in the Pretoria Minutes, had not been respected, although negotiations between the South African authorities and the Office of the United Nations High Commissioner for Refugees (UNHCR) had started in March 1990.

52. Although the repatriation process for South African exiles had indeed started, after the signing of agreements in September and October 1991 between the South African Government and UNHCR, it would appear that, contrary to what had been agreed, not all the returnees had been granted general unconditional amnesty. Under the terms of the proposed amnesty, the Government retained the right to refuse complete immunity from prosecution in certain cases to the perpetrators of offences subject to the death penalty, even if those acts had been inspired by their political beliefs. Nor had all political prisoners yet been released, including those detained in the homelands, for example, in Bophuthatswana.

53. The situation had deteriorated considerably and violence had reached unprecedented levels. The blatant funding of the Inkatha Freedom Party and the United Workers' Union of South Africa, admitted by the Government, and the increasing evidence of complicity by the security forces which had helped to foment violence in the townships, posed very serious problems. The Government's inability to put an end to that situation risked delaying, and even jeopardizing, the negotiations and the transition process.

54. Nevertheless, the Working Group welcomed the signing of the National Peace Agreement, on 14 September 1991, by the African National Congress, the Inkatha Freedom Party and the South African Government. It was of the utmost importance that the machinery for implementing the various provisions of that Agreement should be put into effect without delay. In that connection, the Commission set up under the 1991 Act on the prevention of public violence and intimidation had an important part to play in analysing the causes of the acts of violence currently being perpetrated and discouraging them, as envisaged in chapter 6 (6.3) of the Peace Agreement.

55. The Working Group also welcomed the establishment of the United Patriotic Front at a conference held at Durban, from 25 to 27 October 1991, in which more than 90 organizations had participated. It was to be hoped that those advances would speed the negotiating process and would culminate, as envisaged, in the establishment of a pre-constitutional assembly in which all parties would be represented. The international community had a decisive role to play in that respect. Conceivably, some aspects of the sanctions might be less strictly applied, in order, for example, to assist anti-apartheid groups, but pressure must continue to be exerted on the South African Government in order to speed the process of constitutional reform.

56. Despite the progress that had been made, the Working Group was greatly concerned by the wave of violence touched off in October 1991 by the

introduction of VAT in South Africa. That had been followed by an unprecedented workers' strike which still paralysed economic activity in the country. The Government should therefore take care to keep a close watch on the activities of all the authorities, given the constant allegations of complicity between the security forces and those who were opposed to the process of national reconciliation. The final success of the transition process would to a large extent depend on the Government's ability to control the violence.

57. Mr. MAUTNER-MARKHOF read out an introductory statement by the Special Representative on the situation of human rights in El Salvador (A/46/529), expressing gratification that the peacemaking efforts of the Salvadorian Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN), with the assistance of the Secretary-General of the United Nations, had led to very encouraging results in the past few months. Those results included the New York Agreement, concluded on 25 September 1991, which established a National Commission for the Consolidation of Peace (COPAZ), provided for a process of purification and reduction of the armed forces, established an agenda for the negotiations on a new National Civil Police, set forth a number of agreements on economic and social questions and drew up an agenda for negotiations on pending items. There was every reason to believe that there would soon be a cease-fire. The Special Representative was deeply convinced that violations of human rights could only be eliminated by ending the violence connected with the war.

58. There was, however, a wide gap between the ideals of peace and amity that inspired the negotiations between the Government and FMLN and the daily situation in regard to human rights in El Salvador. Although they were slightly fewer than in 1990, there had still been violations of human rights in 1991. As before, there were summary executions on political grounds, attributed to members of the army, the security forces and the civil defence. In respect of the executions attributed to the "death squads", whose activities were allegedly tolerated by the so-called armed forces or linked to them, those suspicions appeared to be well-founded, although the difficulties of investigation made it impossible to draw definitive conclusions. Similarly, abductions had continued, some of the persons abducted being currently regarded as having disappeared. The climate of threats against leaders of humanitarian organizations had grown worse. As far as the extra-judicial interrogation of persons held for political reasons was concerned, there were cases of psychological intimidation that were tantamount to torture, even if that was not an institutionalized policy.

59. With regard to the functioning of Salvadorian criminal justice, his delegation welcomed the court verdict of 28 September 1991 on the assassination of Jesuits, which had found an army colonel responsible for all the killings, and a lieutenant responsible for the death of the daughter of the housekeeper. The other accused had been acquitted, and although that might seem surprising, the conviction of a colonel and a lieutenant was most

(Mr. Mautner-Markhof)

unusual. The judicial investigation must, however, be pursued to establish once and for all whether there had been one or more "master-minds", in order to charge and punish the person or persons involved. It should also be remembered that the court proceedings initiated in connection with serious human rights violations that had occurred years previously had made virtually no progress.

60. Concerning respect for international humanitarian law applicable in the context of the armed conflict in El Salvador, the investigation showed that it had been difficult to establish the number of civilians who had become victims of the actions of the army, but the figure had been lower than in 1990; moreover, the incidents concerned had occurred accidentally, without hostile intent. The Special Rapporteur had also received information on the summary execution of guerrillas captured in combat, but the difficulties encountered in conducting the investigation had made it impossible to reach definitive conclusions on that matter. The FMLN had also summarily executed soldiers not on active service and alleged army collaborators, kidnapped Salvadorian citizens, pursued its attacks against the country's economic infrastructure, although with less intensity than in previous years, and killed or critically wounded civilians with contact mines.

61. The Special Rapporteur also noted that his visit to El Salvador had confirmed the persistence in certain social groups of a spirit of violence out of keeping with the objectives of the ongoing negotiations between the Governments and the FMLN. It was fair to say that the desire for reconciliation felt by the vast majority of the Salvadorian people was not yet part of the cultural attitudes of certain radical groups with incompatible ideologies, and that might make implementation of the agreements difficult. The Salvadorian Government and the FMLN must therefore do everything they could to make all forces and social groups in the country, beginning with the most radical among them, embrace the objectives of peace and reconciliation, and to provide accompanying institutional guarantees that ensured implementation of all the provisions of the agreements. The Special Rapporteur expressed his appreciation to the Salvadorian constitutional authorities, the FMLN and the other Governments, non-governmental organizations and private persons for helping him carry out his mandate and to the Centre for Human Rights for its excellent assistance.

62. Mr. VAN SCHAIK (Netherlands), speaking on behalf of the 12 States members of the European Community and referring to the Secretary-General's report on the work of the Organization (A/46/1), said that human rights were not only the internal affair of States but also a legitimate subject of international concern.

63. With regard to the European climate, the Conference on Security and Cooperation in Europe (CSCE) had made a major contribution to promoting and protecting human rights. The meetings in Copenhagen, Paris and Moscow in 1990 and 1991 had made it possible to put into place a well-defined mechanism with a rigorous procedure for sending rapporteurs or experts to whom States would

(Mr. Van Schaik, Netherlands)

have to grant access, to agree on guarantees against abuse of the proclamation of a state of emergency and to consider principles for full implementation of the rule of law. The trend towards democratization could also be observed in other regions. The European Community welcomed the growing recognition of the vital link between democracy, human rights and sustainable development. In their relations with their partners, the Twelve sought a constructive dialogue on those issues and stood ready to provide concrete assistance. In the event of grave and persistent human rights violations or serious interruption of democratic processes, the Community could consider reducing its development assistance.

64. The Twelve attached great importance to the 1993 World Conference on Human Rights (see A/46/24) and would make an active contribution to it. They supported the recommendations of the Preparatory Committee and would emphasize the need for input from experts and non-governmental organizations throughout that process. A consensus must be maintained, and an appropriate and realistic budget must be drawn up.

65. Questions relating to minorities were high on the political agenda again. The Commission on Human Rights was drafting a declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, and the question was also being examined in the CSCE framework.

66. With regard to women, the Community hoped that the special rapporteurs on torture and on specific country situations, the Working Group on Enforced or Involuntary Disappearances and the Working Group on Detention would continue to address the issue of human rights violations suffered by women. A Working Group of the Subcommission on Prevention of Discrimination and Protection of Minorities was studying contemporary forms of slavery, including trafficking in persons. There was a proposal before the Third Committee to establish a United Nations voluntary trust fund to allow representatives of non-governmental organizations to participate in the deliberations of that working group and to provide assistance to victims of slavery (see Commission on Human Rights resolution 1991/58).

67. Concerning the Centre for Human Rights, the Secretary-General's report on human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/46/603) pointed out that the workload of the Centre had continued to increase in response to new demands made by the Member States, which had adopted new human rights instruments and given the Centre new mandates subsequent to the completion of the proposed programme budget for the biennium 1992-1993. Staff shortages were a matter of great concern to the Twelve, and they called on the Fifth Committee to remedy that situation when reviewing the proposed programme budget. It was also important to bear in mind that in his annual report on the work of the Organization (A/46/1) the Secretary-General had focused on the protection of human rights as one of the Organization's major tasks.

(Mr. Van Schaik, Netherlands)

68. In monitoring compliance with established norms, the Commission on Human Rights had created a system of special rapporteurs, thematic rapporteurs and working groups; Governments had a duty to cooperate with those mechanisms. Any reprisals against people who had contacted United Nations bodies or cooperated with them constituted an outrage to the Organization and its Member States.

69. Notwithstanding a number of positive developments described in the report of the Special Rapporteur on Torture, the European Community noted with dismay that the world-wide campaign against torture, launched in 1975, was far from the goal of eradicating that scourge.

70. In his most recent report (E/CN.4/1991/56), the Special Rapporteur on religious intolerance of the Commission on Human Rights had noted that infringements of the freedom of religion and belief persisted in many regions of the world in extremely varied forms. The European Community also took note of the alarming number of unresolved cases of politically-motivated disappearances, as mentioned in the latest report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20 and Add.1). The Community was particularly concerned about the actions of paramilitary groups, which carried out many abductions while often appearing to enjoy immunity from military or governmental control. In that connection, the Community welcomed the completion by the Working Group on Detention of the draft Declaration on the Protection of All Persons from Enforced or Involuntary Disappearance (E/CN.4/Sub.2/1990/32, annex), which would be presented for adoption at the forty-eighth session of the Commission on Human Rights; it hoped that the General Assembly would then adopt the draft at its forty-seventh session. It also welcomed the attention accorded to the issue of impunity, which was undoubtedly a decisive factor in disappearances.

71. Certain Governments seemed to be unwilling or unable to bring to justice those who violated human rights. The issue of impunity was particularly topical as so many countries were experiencing a transition from periods of dictatorship to democracy. The Community urged Governments burdened with ugly legacies to ensure that justice was rendered. Where there was unwillingness to do so, the United Nations should make itself heard, as it had done in the past.

72. As serious, systematic and undisputed cases of human rights violations had begun to threaten regional stability and international peace and security, the Security Council had started examining those issues, in particular with respect to northern Iraq, Cambodia and El Salvador. The Twelve welcomed that development and believed the Council's action could serve as a model which could be applied to other regions or countries.

73. The Community deplored the atrocities committed in Yugoslavia. It had taken the initiative of consulting the parties concerned in an effort to mediate and establish a cease-fire. Acting within the framework of the

(Mr. Van Schaik, Netherlands)

Conference on Security and Cooperation in Europe (CSCE), it had organized a monitoring mission. It remained committed to fostering the peaceful dialogue necessary to create a situation in Yugoslavia which satisfied the aspirations of all the peoples in the region and guaranteed human rights and fundamental freedoms. Until the end of the hostilities, the provisions of the Geneva Conventions must be applied to both civilians and combatants. Those who violated human rights should be brought to justice.

74. Iraq had invaded Kuwait in clear violation of international law. In his preliminary report on the situation of human rights in Kuwait under Iraqi occupation (A/46/544), the Special Rapporteur of the Commission on Human Rights had laid particular stress on the problem of missing persons, which was a matter of grave concern for the Twelve. In their dialogue with Kuwait, the Twelve had emphasized that everyone was entitled to a fair trial. They had taken note of some recent improvements and would continue to follow developments closely, in particular with regard to the problem of deportations.

75. The European Community countries had initiated a protection and assistance plan for the Kurds. United Nations officials had been sent to Iraq so that Kurds might exercise their basic rights. Those officials should remain there as long as necessary. In that connection, the Twelve wished to draw attention to the provisions of Security Council resolution 688 (1991). Ten months after the adoption of that resolution, it had, sadly, to be admitted that in the absence of an internal settlement, the situation of the Kurds remained precarious. The Community called upon the Government of Iraq and the other countries of the region to put an end to the persecution of the Kurds.

76. The Twelve were looking forward to the interim report on the situation of human rights in Iraq by the Special Rapporteur of the Commission on Human Rights. The report was expected to discuss the contempt for human rights manifested by the Iraqi regime, which had extended to Iraqis themselves. The Iraqi Government had systematically ignored obligations it had accepted voluntarily. The Twelve also opposed the way in which the Shiite community was being treated and demanded that the Government put an end to the repression of civilians and cooperate with United Nations humanitarian relief efforts. The Iraqi regime was responsible for the deterioration of living conditions in the country. The Twelve stressed in that regard the need for rapid and effective application of Security Council resolutions 706 (1991) and 712 (1991), which would help to imrprove the situation.

77. The Twelve had watched with relief and satisfaction the collapse of the attempted coup d'état in the Soviet Union. They noted with satisfaction that the Soviet Union had acceded to the Optional Protocol to the International Covenant on Civil and Political Rights; the Soviet Union had also recognized the competence of other human rights monitoring bodies to receive and consider communications from individuals. They expected the Soviet Union and the Republics of which it was composed to combat firmly violations which continued

(Mr. Van Schaik, Netherlands)

to occur, in particular discrimination against minorities. Future relations between the Community and the Republics would depend to a large extent on their approach to that important area.

78. The information available, including the report of the Committee against Torture (A/46/46), showed that torture and ill treatment were still common practice in Turkish police stations. In Albania, democratization had to take place in accordance with the principles of the rule of law and respect for human rights and fundamental freedoms. The Community had demonstrated its support for that country through a substantial cooperation programme. Cyprus remained a matter of deep concern for the Twelve, which reaffirmed their support for restoration of the unity, independence, sovereignty and territorial integrity of the island, in conformity with United Nations resolutions, Security Council resolution 716 (1991) in particular.

79. The Twelve hoped that the Middle East Peace Conference, held at Madrid, would lead to a comprehensive political settlement of the Arab-Israeli conflict and the Palestinian problem. They remained deeply concerned about the situation in the occupied territories and had not hesitated to denounce Israel's failure to comply with its obligations under the fourth Geneva Convention; they recalled once again Israel's obligations under Security Council resolutions 672 (1990) and 673 (1990) and under international law.

80. The human rights situation in Syria remained a matter of serious concern. With regard to Lebanon, the Community hoped that the full implementation of the Taif Agreement would at last bring about restoration of the sovereignty, independence, unity and territorial integrity of Lebanon and put an end to the suffering of the Lebanese people. The Community welcomed the recent release of several hostages and called for the unconditional and immediate release of those remaining.

81. The human rights situation in the Islamic Republic of Iran remained serious and should continue to be closely monitored. The International Committee of the Red Cross (ICRC) had not been permitted to visit Iranian prisons despite an explicit request by the General Assembly. The Special Representative appointed to study the human rights situation in Iran was mandated to report to the Commission on Human Rights at its forty-eighth session, and the Twelve hoped that he would enjoy the full cooperation of the Iranian Government.

82. With regard to China, the European Community could only express its dismay at the severe sentences passed following summary trials of Chinese citizens committed to democracy. The Twelve appealed to the Chinese authorities to grant amnesty to all political activists and to guarantee respect for human rights, including in Tibet, in accordance with China's international obligations. The Twelve also reiterated their deep concern regarding the situation in Afghanistan and the conditions of prisoners held in detention centres. Nor should the fate of prisoners held by rival groups of

(Mr. Van Schaik, Netherlands)

opposition forces be overlooked. The Special Rapporteur had provided ample evidence in his report on the situation of human rights in Afghanistan (A/46/606).

83. In violation of article 25 of the International Covenant on Civil and Political Rights, the Burmese authorities had failed to uphold the results of the elections held on 27 May 1990. The European Community shared the deep concern of the Secretary-General and expressed the hope that the awarding of the Nobel Peace Prize to Daw Aung San Suu Kyi would at last allow the Burmese militiary authorities to understand the international community's signals of concern.

84. As for the situation in Cambodia, the European Community welcomed the comprehensive political settlement achieved by all parties participating in the reconvened Paris Conference. The right of the Cambodian people to self-determination through free, fair and internationally supervised elections must in no way be curtailed. The settlement included appropriate and rigorous provisions aimed at preventing a recurrence of the atrocities committed between 1975 and 1978. Another important element was the right of all Cambodians who had fled their country to return and live in safety and dignity.

85. The Community remained concerned about continued human rights violations in Viet Nam and welcomed the recent release of some political detainees. Nevertheless, many people were still in prison, contrary to Viet Nam's international obligations. The Community deplored the continuing violence in Kashmir and had urged the Indian Government to allow humanitarian and international human rights organizations access to the region in order to make an independent assessment of the situation. The Twelve hoped that the Indian and Pakistani Governments would refrain from any action that might increase tension in the region and urged the Pakistani Government to take effective steps to prevent violent interference from arising in territory under its control.

86. The European Community remained deeply concerned at the ongoing civil strife in northern and eastern Sri Lanka and at reports of killings and disappearances in the eastern part of the country, especially of Tamil civilians. The Twelve urged the Sri Lankan Government to bring those responsible for the killings to justice and condemned the use of violence by the Liberation Tigers of Tamil Elaam (LTTE). They welcomed the invitation of the Sri Lankan Government to representatives of the Working Group on Enforced or Involuntary Disappearances. They hoped that the expected visit of the Special Rapporteur of the Commission on Human Rights on summary and arbitrary execution would soon take place and that the Special Task Force to monitor human rights, established by the Head of State in November 1990, would soon announce tangible and objective results. Finally, the Twelve called on the Government of Sri Lanka to ensure that the humanitarian activities of ICRC, UNHCR, Médecins sans Frontières and other relief agencies could be carried out under the best possible conditions.

(Mr. Van Schaik, Netherlands)

87. The European Community was greatly concerned about reports that on 12 November 1991, members of the Indonesian armed forces in Dili had opened fire on a group of demonstrators, killing and wounding a considerable number. The Twelve vehemently condemned such violence, which clearly violated the most fundamental human rights. They urged the Indonesian Government to ensure that its armed forces and police refrained from using violence in East Timor and that those responsible for the tragic outcome of the incident were brought to trial.

88. That incident had occurred in the context of a deteriorating human rights situation in East Timor. The Community viewed favourably the authorization given to the Special Rapporteur on torture to visit the area and looked forward to receiving his findings. The Twelve also expected that non-governmental organizations and other independent bodies would be allowed to visit the Territory and hoped that the legitimate aspirations of the people of East Timor would be fully taken into account.

89. In Africa, some encouraging human rights developments were to be noted, a process that the Twelve were committed to supporting wherever it emerged. In the case of South Africa, the United Nations had always been in the vanguard of international efforts to eliminate the apartheid system. The Community was thus pleased to note significant changes. However, serious problems remained to be solved, in particular those related to the legacy of apartheid. Persistent violence was a source of concern; the Community urged all parties to adhere to the principles laid down in the national peace accord signed in September 1991. The Twelve welcomed the agreement by the Government and the parties involved in the democratization process to meet to discuss a new constitutional order for the broadest participation by all sectors of South African society. It was to be hoped that such a meeting would lead to an agreement on a constitution for a united, non-racial and democratic South Africa.

90. Recent developments in Ethiopia were cause for optimism. The European Community hoped that a process of national reconciliation could be completed and respect for human rights firmly established. Reports were still coming from Eritrea, however, concerning the expulsion of non-Eritreans.

91. In Somalia, the violence had continued despite the fall of the former regime. It could only be hoped that the outcome of the Djibouti conference would be implemented and prove to be the first step towards the reconstruction of Somalia. The European Community urged national reconciliation and reaffirmed its commitment to provide humanitarian aid under conditions guaranteeing effective distribution to the population. In the Sudan, the situation seemed to have deteriorated seriously since the military takeover of 1989. Obstruction of humanitarian emergency assistance to southern Sudan by the Government and the Sudan People's Liberation Movement (SPLM) must be deplored and condemned. The situation in Zaire was critical, and the Twelve were convinced that democratization alone could satisfy the aspirations of the

(Mr. Van Schaik, Netherlands)

people. They urged the authorities and all political and social forces to do their utmost to reach an agreement on the political future of Zaire that would guarantee the rule of law, the holding of free elections, and respect for human rights. With regard to Liberia, the European Community welcomed the outcome of the summit meeting on 29 and 30 October 1991. That agreement should be implemented immediately.

92. In Latin America, several States had made progress along the road towards national reconciliation, democracy and the restoration of human rights and fundamental freedoms. The social situation, however, often undermined that process.

93. The events in Haiti had generated dismay. In a declaration issued on 3 October 1991, the Twelve had unreservedly condemned the coup d'état that had overthrown the country's first democratically elected President. In El Salvador, the European Community noted with concern, fundamental human rights values were still persistently violated. The Community welcomed the recent cease-fire and called on the parties to the conflict to continue their dialogue, which had already led to the establishment of the United Nations Observer Mission in El Salvador (ONUSAL). The trial of the accused murderers of a number of Jesuit priests represented some progress, but the Community was concerned by reports that not all the guilty had been prosecuted. The Twelve looked forward to the early implementation of the constitutional amendments. With regard to Guatemala, the European Community was deeply concerned at the deterioration of the human rights situation. The assassination of human rights activists and members of the indigenous population as well as the killing and disappearances of "street children", as recently reported by the independent Expert of the Commission on Human Rights, were particularly alarming.

94. The Commission on Human Rights had quite rightly extended the independent Expert's mandate; the Twelve shared his view that one of the Government's top priorities should be to strengthen its authority over the armed forces and to ensure their cooperation in putting an end to the death squads, allegedly linked to the military, and other paramilitary groups. The European Community was encouraged by the fact that human rights was a major issue in the negotiations between the Guatemalan Government and the Unidad Revolucionaria Nacional Guatemalteca (URNG). It was to be hoped that that would lead to an early conclusion of the negotiations and to an improvement in the human rights situation in Guatemala.

95. With regard to Cuba, the Twelve were particularly concerned at pressure put on human rights activists or persons active in local non-governmental organizations. The Community would pursue its efforts to achieve a constructive dialogue with the Cuban authorities, recalling in that connection Commission on Human Rights resolution 1991/68. Defenders of human rights, including journalists, parliamentarians, trade union officials and many others, were all too often the first victims of the arbitrary treatment they denounced. It was the duty of the United Nations to assist them.

Rights of reply

96. Mr. HUSSEIN (Iraq) said that he had listened carefully to the statement made by the Special Rapporteur on the situation of human rights in Kuwait and could only regret his lack of objectivity.

97. First, the Special Rapporteur had stated that he had tried to contact the Iraqi Government to obtain its views on the complaints brought against it, yet Iraq had received no such request until two weeks ago. He therefore called on the Special Rapporteur to provide evidence of his claim.

98. Second, some of the information contained in the report (A/46/544) had not been transmitted to the Government of Iraq, contrary to United Nations practice. Not having been given an opportunity to express its views on the contents of the report, in violation of the right to a defence, Iraq was thus obliged to reject the report.

99. Third, the information contained in the report was of a general nature only; the names of the alleged victims of violations were not given.

100. Fourth, concerning the Kuwaiti prisoners, the representative of the Secretary-General had visited Iraq in October 1991 and could testify that the Iraqi Government had cooperated fully with him in the search for a solution. The Kuwaiti Government, however, had refused to admit 6,000 persons without documents (Biduns) currently in Iraq, on the pretext that it needed time to determine whether or not they were Kuwaitis. Iraq had still not received any reply on that matter.

101. Fifth, it was regrettable that the Special Rapporteur had ignored the decision of the Subcommission on Prevention of Discrimination and Protection of Minorities (see its resolution E/CN.4/Sub.2/1991/L.11/Add.1), calling for an inquiry into the violations committed by Kuwait against non-Kuwaitis, in particular those involving disappearances, torture, deaths in detention, deportation, persecution of non-nationals and extrajudicial killings. The Special Rapporteur was required to inform the Commission on Human Rights about the situation in Kuwait following the withdrawal of the Iraqi forces. However, the Rapporteur had said that he had not actually had the time to do so. Iraq wondered whether the issue of human rights could be divided and whether it was right to apply two different sets of standards.

102. Regarding the statement made by the representative of the Netherlands on behalf of the 12 States members of the European Community, it was unfortunate that, once again, a double standard was being applied. The representative of the Netherlands had said not a word about the Jordanians, Palestinians and Iraqis living in Kuwait, or about the suffering inflicted on the Iraqi people by the embargo imposed on Iraq. Were those issues unrelated to human rights or the concerns of the European Community? His delegation reserved the right to reply again in greater detail, but asked the representative of the Netherlands to review Iraq's position as set out in the forthcoming report of the Special Rapporteur (A/46/647).

103. Mr. BANDARA (Sri Lanka) commended the balanced approach taken by the representative of the Netherlands, speaking on behalf of the Twelve, with regard to the human rights situation in Sri Lanka; he was pleased that the European Community recognized the difficulties his Government faced in coping with civil strife.

104. Sri Lanka was maintaining its long tradition of democratic government, despite the recent threats of secession by one part of the country. His Government sought to guarantee the rights and fundamental freedoms of the entire population; it fully subscribed to the Universal Declaration of Human Rights and had signed and ratified the International Covenant on Civil and Political Rights and other human rights instruments. It regularly submitted reports to the human rights treaty bodies and readily welcomed the non-governmental organizations and other human rights groups (in particular Amnesty International) that wished to visit the country. It had, in addition, taken various steps to ensure that everyone respected the law.

105. Mr. WISNUMURTI (Indonesia) said that he wished to make a number of clarifications as to the facts concerning East Timor, which the representative of the Netherlands had referred to in his statement on behalf of the 12 member States of the European Community.

106. On the morning of 12 November 1991 after a church service, a group of people had proceeded in the direction of Santa Cruz cemetery; some of them had separated themselves from the group and turned towards the Tourismo Hotel and the Governour's Office. They had become violent and attacked the police and security officers, who had tried to persuade them to disperse. The demonstration had quickly deteriorated into a riot, which explained why the police and security officers had been compelled to use force in order to restore order. In doing so, they had confiscated various types of weapons. The discrepency between the version given by the authorities in Dili and that of the onlookers (some of whom were tourists) was due to the fact that the onlookers had joined the main group, which had gone directly to the cemetery and, thus, had not witnessed the violent encounter between the demonstrators and the security officers. Thirty persons had sought sanctuary in the compound of the International Committee of the Red Cross (ICRC) in Dili, and the Military Commander of East Timor had given assurances to ICRC that they would be free to go home in complete safety. The ICRC officials had also been able to accompany them to their homes, as the International Committee had reported in its press release of 13 November 1991. The Government had also given assurances of its continued support for and cooperation with ICRC in the discharge of its mandate in East Timor. Aside from that incident, the situation in Dili and other parts of the province had remained normal. President Soeharto had established a national investigation commission, which was headed by a Supreme Court judge and composed of members of the Department of Home Affairs, the Department of Foreign Affairs, the Department of Justice, the armed forces, the Parliament and the Supreme Advisory Council and which would conduct a thorough investigation of all aspects of the incident. Its findings would be made public. Whoever was found to have violated the law would be brought to trial in accordance with the principles of rule of law and Pancasila, upon which life in the Republic of Indonesia was based.

(Mr. Wisnumurti, Indonesia)

107. One could not overlook the fact that the incident had occurred after Portugal had unilaterally postponed a visit by a Portuguese parliamentary delegation to East Timor and the apparent link between the two events. While the Indonesian Government deeply regretted the incident and appreciated the genuine concern expressed about it, it was dismayed to see that there were deliberate attempts by certain quarters to exaggerate the incident in order to discredit Indonesia with regard to the question of East Timor.

108. Mr. SIDDIG (Sudan), replying to concerns expressed by the delegation of the Netherlands on behalf of the Twelve, said that (i) the Sudanese Government, in order to strengthen the concept of human rights and the judiciary, of which it was the guardian, had convened in August 1991 a conference on administration of justice and judicial reforms and that the President of the Republic had stressed his determination to strengthen the independence of the judicial branch; (ii) since the Sudanese Government had released all political prisoners in May 1991, there had been no further political arrests and the Khartoum political prison (a building constructed by the British) had been demolished; (iii) the practice of preventive arrest had been abolished and all arrest procedures had been placed under the control and supervision of the judicial branch; (iv) the delegation of parliamentarians which had visited the Sudan at the beginning of 1991 had inspected the living conditions of the prisoners and had found them satisfactory; (v) with regard to the obstacles that had allegedly impeded the provision of emergency food aid to southern Sudan, (a) the Sudanese Government, which was deeply concerned about the welfare of the population in the south of the country should, on the contrary, be congratulated for Operation Lifeline Sudan; (b) in their reports the United Nations agencies that had provided emergency humanitarian aid had described the cooperation extended by the Sudanese Government in order to distribute that aid to the population in the south of the country; (c) at numerous meetings held in Kenya between representatives of the Sudanese Government and the Under-Secretary-General for Special Political Questions, Regional Cooperation, Decolonization and Trusteeship, the Sudanese Government had demonstrated that it had been ready to assist its nationals living in that region. Agreements had been concluded on the dropping of supplies and the establishment of corridors in order to transport the aid.

109. It was the rebel movements that violated human rights in the Sudan, for example, by kidnapping tens of thousands of children in order to bring them into their ranks after forcing them to undergo military instruction; and it was those movements, therefore, which should be condemned. The Sudan regretted the impression created by the statement which the Netherlands had made on behalf of the Twelve and showed that the members of the European Community did not understand the situation in his country.

110. Mr. RAZZOOQI (Kuwait) said that, at the request of the Chairman, he would take the floor at the meeting the following day with regard to the report of the Special Rapporteur on the situation of human rights in Kuwait under Iraqi occupation (A/46/544), but wished at that stage to thank the Special Rapporteur for the excellent work that he had carried out.

(Mr. Razzooqi, Kuwait)

111. The representative of Iraq did not deserve any reply because the facts spoke for themselves and the atrocities and acts of brutality that had been committed were well-documented. Nevertheless, he pointed out to the representative of Iraq that with regard to the mandate of the Special Rapporteur, his delegation had only to refer to paragraph 2 of the report in question.

112. Mr. HUSSEIN (Iraq), said that, with regard to the mandate of the Special Raporteur, he had referred to the decision taken by the Subcommission on Prevention of Discrimination and Protection of Minorities.

113. Mr. MORA GODOY (Cuba) said that he would reply in due course and with the necessary arguments to the statement made by the Netherlands on behalf of the Twelve so that they might consider the position that they had taken concerning his country, since they had perhaps not taken into account the problems which were peculiar to Cuban society.

114. Referring to a question of organization, he pointed out that the Chairman had requested delegations to limit their statements to 15 minutes on a given item and that delegations that had exceeded that limit had been interrupted and requested to conclude their remarks. Although delegations were perfectly entitled to say what they wished, they should all be given equal treatment, particularly with regard to issues as delicate as human rights questions. His delegation, therefore, requested the Chairman, the members of the Committee and the Bureau to ensure that the 15-minute rule was strictly observed.

115. The CHAIRMAN said that although a decision had been taken at the 2nd meeting of the Committee to limit statements on each item to 15 minutes, he would be flexible with regard to delegations that took the floor on behalf of several countries. Much time was saved by permitting a delegation to speak, as the delegation of the Netherlands had done, for example, on behalf of 12 countries.

The meeting rose at 1.15 p.m.